



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB2426

Introduced 2/17/2005, by Rep. Dan Reitz

SYNOPSIS AS INTRODUCED:

30 ILCS 350/3	from Ch. 17, par. 6903
30 ILCS 350/9	from Ch. 17, par. 6909
30 ILCS 350/10	from Ch. 17, par. 6910
30 ILCS 350/11	from Ch. 17, par. 6911
30 ILCS 350/16.5	
30 ILCS 350/17	from Ch. 17, par. 6917
30 ILCS 350/17.5	

Amends the Local Government Debt Reform Act. In a Section concerning definitions, provides that public corporations are included within the definition of "governmental unit", and deletes provisions that a bureau, board, commission, university, or similar agency of the State is a "governmental unit". Provides that the proceeds of bonds may be used to provide for the payment of interest upon such bonds for a period not to exceed the greater of 3 years (now, 2 years) or a period ending 6 months after the estimated date of completion of the acquisition and construction of the project or accomplishment of the purpose for which such bonds are issued. Provides that bonds must become due within 30 years (now, 40 years unless limited by law). Provides that a refunding bond issue may authorize the use of the proceeds to pay interest on the refunding bond issue during the period of time from delivery of the issue to the redemption date of the bonds being refunded. Provides that bonds that have been wholly refunded or provided for with qualifying securities shall not be included as debt for the purposes of any calculation or limitation. In a Section concerning referenda for bonds, provides that no action may be brought by any person in any court or other tribunal seeking in any way to challenge or contest the validity of an election outcome based upon the wording set forth in any election notice or the ballot after a period of 30 days after the canvass of such election. In a Section concerning lease and installment contracts, provides that certificates evidencing the indebtedness incurred under a lease or agreement may be refunded under certain provisions of the Act. In a Section concerning bond authorization by referendum, provides that bond approval subject to a backdoor referendum expires after 5 years (now, 3 years). Effective immediately.

LRB094 08971 BDD 39192 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning finance.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Local Government Debt Reform Act is amended
5 by changing Sections 3, 9, 10, 11, 16.5, 17, and 17.5 as
6 follows:

7 (30 ILCS 350/3) (from Ch. 17, par. 6903)

8 Sec. 3. Definitions. In this Act words or terms shall have
9 the following meanings unless the context or usage clearly
10 indicates that another meaning is intended.

11 (a) "Alternate bonds" means bonds issued in lieu of revenue
12 bonds or payable from a revenue source as provided in Section
13 15.

14 (b) "Applicable law" means any provision of law, including
15 this Act, authorizing governmental units to issue bonds or
16 relating to any procedure, including any notice, hearing,
17 meeting, referendum, or backdoor referendum, to be taken in the
18 course of actions to issue bonds.

19 (c) "Backdoor referendum" means the submission of a public
20 question to the voters of a governmental unit, initiated by a
21 petition of voters, residents or property owners of such
22 governmental unit, to determine whether an action by the
23 governing body of such governmental unit shall be effective,
24 adopted or rejected.

25 (d) "Bond" means any instrument evidencing the obligation
26 to pay money authorized or issued by or on behalf of a
27 governmental unit under applicable law, including without
28 limitation, bonds, notes, installment or financing contracts,
29 leases, certificates, tax anticipation warrants or notes,
30 vouchers, and any other evidences of indebtedness.

31 (e) "Debt service" on bonds means the amount of principal,
32 interest and premium, if any, when due either at stated

1 maturity or upon mandatory redemption.

2 (f) "Enterprise revenues" means the revenues of a utility
3 or revenue producing enterprise from which revenue bonds may be
4 payable.

5 (g) "General obligation bonds" means bonds of a
6 governmental unit for the payment of which the governmental
7 unit is empowered to levy ad valorem property taxes upon all
8 taxable property in a governmental unit without limitation as
9 to rate or amount.

10 (h) "Governing body" means the legislative body, council,
11 board, commission, trustees, or any other body, by whatever
12 name it is known, having charge of the corporate affairs of a
13 governmental unit.

14 (h-5) "Governmental revenue source" means a revenue source
15 that is either (1) federal or State funds that the governmental
16 unit has received in some amount during each of the 3 fiscal
17 years preceding the issuance of alternate bonds or (2) revenues
18 to be received from another governmental unit under an
19 intergovernmental cooperation agreement.

20 (i) "Governmental unit" means a county, township,
21 municipality, municipal corporation, unit of local government,
22 school district, special district, public corporation, body
23 corporate and politic, forest preserve district, fire
24 protection district, conservation district, park district,
25 sanitary district, public corporations, as defined in the Bond
26 Authorization Act, and all other local governmental agencies,
27 including any entity created by intergovernmental agreement
28 among any of the foregoing governmental units, but does not
29 include any office, officer, department ~~or~~ division, ~~bureau,~~
30 ~~board, commission, university, or similar agency~~ of the State.

31 (j) "Ordinance" means an ordinance duly adopted by a
32 governing body or, if appropriate under applicable law, a
33 resolution so adopted.

34 (k) "Revenue bonds" means any bonds of a governmental unit
35 other than general obligation bonds, but "revenue bonds" does
36 include any debt authorized under Section 11-29.3-1 of the

1 Illinois Municipal Code.

2 (l) "Revenue source" means a source of funds, other than
3 enterprise revenues, received or available to be received by a
4 governmental unit and available for any one or more of its
5 corporate purposes.

6 (m) "Limited bonds" means bonds, excluding leases, notes,
7 installment or financing contracts, certificates, tax
8 anticipation warrants or notes, vouchers, and any other
9 evidences of indebtedness, issued under Section 15.01 of this
10 Act.

11 (Source: P.A. 92-879, eff. 1-13-03.)

12 (30 ILCS 350/9) (from Ch. 17, par. 6909)

13 Sec. 9. Provisions for interest.

14 (a) The proceeds of bonds may be used to provide for the
15 payment of interest upon such bonds for a period not to exceed
16 the greater of 3 ~~2~~ years or a period ending 6 months after the
17 estimated date of completion of the acquisition and
18 construction of the project or accomplishment of the purpose
19 for which such bonds are issued.

20 (b) In addition it shall be lawful for the governing body
21 of any governmental unit issuing bonds to appropriate money for
22 the purpose of paying interest on such bonds during the period
23 stated in subsection (a) of this Section. Such appropriation
24 may be made in the ordinance authorizing such bonds and shall
25 be fully effective upon the effective date of such ordinance
26 without any further notice, publication or approval
27 whatsoever.

28 (c) The governing body of any governmental unit may
29 authorize the transfer of interest earned on any of the moneys
30 of the governmental unit, including moneys set aside to pay
31 debt service, into the fund of the governmental unit that is
32 most in need of the interest. This subsection does not apply to
33 any interest earned that has been earmarked or restricted by
34 the governing body for a designated purpose. This subsection
35 does not apply to any interest earned on any funds for the

1 purpose of municipal retirement under the Illinois Pension Code
2 and tort immunity under the Local Governmental and Governmental
3 Employees Tort Immunity Act. Interest earned on those funds may
4 be used only for the purposes authorized for the respective
5 funds from which the interest earnings were derived.

6 (Source: P.A. 92-879, eff. 1-13-03.)

7 (30 ILCS 350/10) (from Ch. 17, par. 6910)

8 Sec. 10. General provisions. Bonds authorized by
9 applicable law may be issued in one or more series, bear such
10 date or dates, become due at such time or times within 30
11 years, notwithstanding any other limit in 40 years, except as
12 expressly limited by applicable law, bear interest payable at
13 such intervals and at such rate or rates as authorized under
14 applicable law, which rates may be fixed or variable, be in
15 such denominations, be in such form, either coupon, registered
16 or book-entry, carry such conversion, registration, and
17 exchange privileges, be subject to defeasance upon such terms,
18 have such rank or priority, be executed in such manner, be
19 payable in such medium of payment at such place or places
20 within or without the State of Illinois, make provision for a
21 corporate trustee within or without the State with respect to
22 such bonds, prescribe the rights, powers and duties thereof to
23 be exercised for the benefit of the governmental unit and the
24 protection of the bondholders, provide for the holding in
25 trust, investment and use of moneys, funds and accounts held
26 under an ordinance, provide for assignment of and direct
27 payment of the moneys to pay such bonds or to be deposited into
28 such funds or accounts directly to such trustee, be subject to
29 such terms of redemption with or without premium, and be sold
30 in such manner at private or public sale and at such price, all
31 as the governing body shall determine. Whenever such bonds are
32 sold at price less than par, they shall be sold at such price
33 and bear interest at such rate or rates such that either the
34 true interest cost (yield) or the net interest rate, as may be
35 selected by the governing body, received upon the sale of such

1 bonds does not exceed the maximum rate otherwise authorized by
2 applicable law. Except for an ordinance required to be
3 published by applicable law in connection with a backdoor
4 referendum, any bond ordinance adopted by a governing body
5 under applicable law shall, in all instances, become effective
6 immediately without publication or posting or any further act
7 or requirement.

8 (Source: P.A. 90-306, eff. 8-1-97.)

9 (30 ILCS 350/11) (from Ch. 17, par. 6911)

10 Sec. 11. Refundings and redemption premiums. Bonds may be
11 refunded or advance refunded upon such terms as the governing
12 body may set in accordance with this Act, for such term of
13 years, not in excess of the maximum term of years permitted by
14 applicable law for the bonds to be refunded, and in such
15 principal amount, all as may be deemed necessary by the
16 governing body. A refunding bond issue may authorize the use of
17 proceeds of such issue to pay interest on the refunding bond
18 issue during the period of time from delivery of such issue to
19 the redemption date of the bonds being refunded. Revenue bonds
20 may be issued to refund general obligation bonds or alternate
21 bonds issued under this Act. General obligation bonds shall not
22 be issued to refund revenue bonds or alternate bonds except as
23 expressly permitted by applicable law. Any redemption premium
24 payable upon the redemption of bonds may be payable from the
25 proceeds of refunding bonds which may be issued for the purpose
26 of refunding such bonds, from any other lawfully available
27 source or from both proceeds and such other sources. Bonds that
28 have been wholly refunded or provided for with qualifying
29 securities shall not be included as debt for the purposes of
30 any calculation or limitation under applicable law.
31 "Qualifying securities" means securities or investments that
32 are lawful for a governmental unit under State law and that
33 have, at the time of purchase, a rating in the highest general
34 classification established by a rating service of nationally
35 recognized expertise in rating securities. "Wholly refunded"

1 or "provided for" means that the interest on and principal of
2 the qualifying securities, when due, which are set aside to pay
3 debt service on the bonds, shall be sufficiently timely to pay
4 the debt service on such bonds.

5 (Source: P.A. 90-306, eff. 8-1-97.)

6 (30 ILCS 350/16.5)

7 Sec. 16.5. Proposition for bonds. For all elections held
8 after July 1, 2000, the form of a proposition to authorize the
9 issuance of bonds pursuant to either a referendum or backdoor
10 referendum may be as set forth in this Section as an
11 alternative to the form of proposition as otherwise set forth
12 by applicable law. The proposition authorized by this Section
13 shall be in substantially the following form:

14 Shall (name of governmental unit) (state purpose for
15 the bond issue) and issue its bonds to the amount of \$
16 (state amount) for the purpose of paying the costs thereof?

17 If a school district expects to receive a school
18 construction grant from the State of Illinois pursuant to the
19 School Construction Law for a school construction project to be
20 financed in part with proceeds of a bond authorized by
21 referendum, then the form of proposition may at the option of
22 the school district additionally contain substantially the
23 following language:

24 (Name of school district) expects to receive a school
25 construction grant from the State of Illinois in the amount
26 of \$ (state amount) pursuant to the School Construction Law
27 for the school construction project to be financed in part
28 with proceeds of the bonds, based on (i) a grant
29 entitlement from the State Board of Education and (ii)
30 current recognized project costs determined by the Capital
31 Development Board.

32 No action may be brought by any person in any Court or
33 other tribunal seeking in any way to challenge or contest the
34 validity of an election outcome based upon the wording set
35 forth in any election notice or the ballot after a period of 30

1 days after the canvass of such election.

2 (Source: P.A. 91-868, eff. 6-22-00; 92-879, eff. 1-13-03.)

3 (30 ILCS 350/17) (from Ch. 17, par. 6917)

4 Sec. 17. Leases and installment contracts.

5 (a) Interest not debt; debt on leases and installment
6 contracts. Interest on bonds shall not be included in any
7 computation of indebtedness of a governmental unit for the
8 purpose of any statutory provision or limitation. For bonds
9 consisting of leases and installment or financing contracts,
10 (1) that portion of payments made by a governmental unit under
11 the terms of a bond designated as interest in the bond or the
12 ordinance authorizing such bond shall be treated as interest
13 for purposes of this Section (2) where portions of payments due
14 under the terms of a bond have not been designated as interest
15 in the bond or the ordinance authorizing such bond, and all or
16 a portion of such payments is to be used for the payment of
17 principal of and interest on other bonds of the governmental
18 unit or bonds issued by another unit of local government, such
19 as a public building commission, the payments equal to interest
20 due on such corresponding bonds shall be treated as interest
21 for purposes of this Section and (3) where portions of payments
22 due under the terms of a bond have not been designated as
23 interest in the bond or ordinance authorizing such bond and no
24 portion of any such payment is to be used for the payment of
25 principal of and interest on other bonds of the governmental
26 unit or another unit of local government, a portion of each
27 payment due under the terms of such bond shall be treated as
28 interest for purposes of this Section; such portion shall be
29 equal in amount to the interest that would have been paid on a
30 notional obligation of the governmental unit (bearing interest
31 at the highest rate permitted by law for bonds of the
32 governmental unit at the time the bond was issued or, if no
33 such limit existed, 12%) on which the payments of principal and
34 interest were due at the same times and in the same amounts as
35 payments are due under the terms of the bonds. The rule set

1 forth in this Section shall be applicable to all interest no
2 matter when earned or accrued or at what interval paid, and
3 whether or not a bond bears interest which compounds at certain
4 intervals. For purposes of bonds sold at amounts less than 95%
5 of their stated value at maturity, interest for purposes of
6 this Section includes the difference between the amount set
7 forth on the face of the bond as the original principal amount
8 and the bond's stated value at maturity.

9 This subsection may be made applicable to bonds issued
10 prior to the effective date of this Act by passage of an
11 ordinance to such effect by the governing body of a
12 governmental unit.

13 (b) Purchase or lease of property. The governing body of
14 each governmental unit may purchase or lease either real or
15 personal property, including investments, investment
16 agreements, or investment services, through agreements that
17 provide that the consideration for the purchase or lease may be
18 paid through installments made at stated intervals for a period
19 of no more than 20 years or another period of time authorized
20 by law, whichever is greater; provided, however, that
21 investments, investment agreements, or investment services
22 purchased in connection with a bond issue may be paid through
23 installments made at stated intervals for a period of time not
24 in excess of the maximum term of such bond issue. Each
25 governmental unit may issue certificates evidencing the
26 indebtedness incurred under the lease or agreement. The
27 governing body may provide for the treasurer, comptroller,
28 finance officer, or other officer of the governing body charged
29 with financial administration to act as counter-party to any
30 such lease or agreement, as nominee lessor or seller. When the
31 lease or agreement is executed by the officer of the
32 governmental unit authorized by the governing body to bind the
33 governmental unit thereon by the execution thereof and is filed
34 with and executed by the nominee lessor or seller, the lease or
35 agreement shall be sufficiently executed so as to permit the
36 governmental unit to issue certificates evidencing the

1 indebtedness incurred under the lease or agreement. The
2 certificates shall be valid whether or not an appropriation
3 with respect thereto is included in any annual or supplemental
4 budget adopted by the governmental unit. From time to time, as
5 the governing body executes contracts for the purpose of
6 acquiring and constructing the services or real or personal
7 property that is a part of the subject of the lease or
8 agreement, including financial, legal, architectural, and
9 engineering services related to the lease or agreement, the
10 governing body shall order the contracts filed with its nominee
11 officer, and that officer shall identify the contracts to the
12 lease or agreement; that identification shall permit the
13 payment of or reimbursement to another fund of previous
14 payments made on the contract from the proceeds of the
15 certificates; and the nominee officer shall duly apply or cause
16 to be applied proceeds of the certificates to the payment of
17 the contracts. Certificates evidencing the indebtedness
18 incurred under any such lease or agreement may be refunded
19 under Section 11 of this Act, which certificates may be
20 designated "refunding debt certificates" and need not evidence
21 participation in the original lease or agreement, may be issued
22 on any terms set forth in Section 10 of this Act, and shall be
23 payable from the same sources of funds as the certificates
24 refunded. The governing body of each governmental unit may
25 sell, lease, convey, and reacquire either real or personal
26 property, or any interest in real or personal property, upon
27 any terms and conditions and in any manner, as the governing
28 body shall determine, if the governmental unit will lease,
29 acquire by purchase agreement, or otherwise reacquire the
30 property, as authorized by this subsection or any other
31 applicable law.

32 All indebtedness incurred under this subsection, when
33 aggregated with the existing indebtedness of the governmental
34 unit, may not exceed the debt limits provided by applicable
35 law.

36 (Source: P.A. 91-493, eff. 8-13-99; 91-868, eff. 6-22-00;

1 92-879, eff. 1-13-03.)

2 (30 ILCS 350/17.5)

3 Sec. 17.5. Bond authorization by referendum. Whenever
4 applicable law provides that the authorization of or the
5 issuance of bonds is subject to either a referendum or backdoor
6 referendum, the approval, once obtained, remains ~~(i)~~ for 5
7 years after the date of the referendum or ~~(ii) for 3 years~~
8 after the end of the petition period for a backdoor referendum.
9 This Section applies only to a referendum or a backdoor
10 referendum held after August 13, 1999 ~~the effective date of~~
11 ~~this amendatory Act of the 91st General Assembly.~~

12 (Source: P.A. 91-493, eff. 8-13-99.)

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.